

JUDGE BAER

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

JAMES M. BURKE and BRADLEY L. GROW, as
the designated Sellers' Representatives, etc.

SUMMONS IN A CIVIL ACTION

V.

HESTIA HOLDINGS, LLC, a Del. Limited Liability
Company, EATERIES, INC., a Del. corporation
and FIESTA HOLDINGS, INC., a Del. corporation

CASE NUMBER

07 CIV 9909

TO: (Name and address of Defendant)

Eateries, Inc.
c/o Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, Delaware 19808

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

William S. Gyves
Entwistle & Cappucci LLP
280 Park Avenue, 26th Floor West
New York, New York 10017
(212) 894-7200

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

CLERK

(By) DEPUTY CLERK

NOV 08 2007

DATE

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RETURN OF SERVICEService of the Summons and complaint was made by me⁽¹⁾

DATE

NAME OF SERVER (PRINT)

TITLE

Check one box below to indicate appropriate method of service☐ Served personally upon the defendant. Place where served:☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:

☐ Returned unexecuted:☐ Other (specify):**STATEMENT OF SERVICE FEES**

TRAVEL

SERVICES

TOTAL

\$0.00

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____

Date

Signature of Server_____
Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.